APPENDIX I

Opinion of the Court of Appeals of Alabama

THE STATE OF ALABAMA—JUDICIAL DEPARTMENT

THE ALABAMA COURT OF APPEALS

OCTOBER TERM, 1968-69

1 Div. 383

A. ROBERT RAY

v.

CITY OF PRICHARD

APPEAL FROM MOBILE CIRCUIT COURT

CATES, *Judge*

This is a purported appeal from a judgment of conviction of a breach of a city ordinance requiring a permit to parade on city streets.

I.

Although the Clerk of the Circuit Court left a blank page therefor, this record comes here without any assignments of error. See Supreme Court Rule 1.

II.

A writ of error is a proceeding in an "appellate" or revisory higher court whereunder the judges are authorized to examine a record on which a judgment has been

given in a lower court of record. *Cohens* v. *Virginia,* 6 Wheat. 264, 409, 410.

This concept of essentially a new suit led to the pleading device of the allegation, e. g., "that manifest error to the hurt and prejudice of your appellant is made to appear in that * * * " Jones, *Alabama Practice and Forms,* §§ 35, 36 and 5571. This is the frame of the assignment of error. 5 Am. Jur. 2d, Appeal and Error, § 648.

Though the writ of error is no longer available in Alabama, except in criminal cases, assignments are still mandatory on submitting an appeal. Also, the assignments must be bound in the record. *Fuller* v. *Porter,* 274 Ala. 321, 148 So. 2d 648.

In criminal appeals, Code 1940, T. 15, § 389, expressly abolishes assignments of error. This expression of the one has been held to be exclusive as to other classes of appeal. The instant appeal is not criminal. *Casteel* v. *City of Decatur,* 215 Ala. 4, 109 So. 571 (3).

The dispensation of § 389, supra, does not compass appeals from convictions of violating municipal ordinances. See *Woods* v. *City of Tuscaloosa,* 43 Ala. App. 626, 198 So. 2d 306; 37 Am. Jur., Municipal Corporations, § 202.

Under the authority of *Parks* v. *City of Montgomery,* 38 Ala. App. 681, 92 So. 2d 683, wherein many cases are cited, the judgment below is due to be

AFFIRMED.

Judgment of the Court of Appeals of Alabama

THE STATE OF ALABAMA—JUDICIAL DEPARTMENT

THE ALABAMA COURT OF APPEALS

OCTOBER TERM, 1968-69

1 Div. 383

A. ROBERT RAY

v.

CITY OF PRICHARD

APPEAL FROM MOBILE CIRCUIT COURT

October 24, 1968
CERTIFICATE FILED

December 26, 1968
TRANSCRIPT FILED

February 20, 1969

Come the parties by attorneys, and submit this cause on briefs for decision.

March 4, 1969

(JUDGMENT)

Come the parties by attorneys, and the record and matters therein assigned for errors, being submitted on briefs and duly examined and understood by the court, it is considered that in the record of the Circuit Court there is no error, no assignments of error having been entered in the transcript. It is also considered that the appellant pay the costs of appeal of this court and of the Circuit Court.

Order of the Supreme Court of Alabama Denying Certiorari

THE SUPREME COURT OF ALABAMA

THURSDAY, MAY 8, 1969

THE COURT MET PURSUANT TO ADJOURNMENT

PRESENT:

CHIEF JUSTICE LIVINGSTON AND ASSOCIATE JUSTICES
LAWSON, SIMPSON, MERRILL, COLEMAN,
HARWOOD AND BLOODWORTH.

1st Div. 583

Ex parte: A. Robert Ray, Petitioner

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS

(Re: A. Robert Ray v. City of Prichard)

Comes the petitioner, by his attorney, and the Petition for Writ of Certiorari to the Court of Appeals being submitted on [redacted]fs and duly examined and understood by the Court,

IT IS ORDERED that the Writ be and the same is hereby denied and that the Petition be and the same is hereby dismissed, at the costs of petitioner, for which costs let execution issue.

(Livingston, C. J., Lawson, Merrill
and Harwood, JJ., concur.)

(No Opinion written)

APPENDIX II

Certified Copy of Letter of June 7, 1968 From the Mayor and City Council of Prichard to the Mobile County Civil Rights Movement

(Letterhead of City of Prichard, Alabama)

October 11, 1968

I, Berniece H. Centanne, City Clerk of the City of Prichard, Alabama hereby certify that the attached record is a true and correct copy of a record on file in the City Clerk's Office in the City of Prichard, Alabama.

/s/ BERNIECE H. CENTANNE
Berniece H. Centanne, City Clerk

June 7, 1968

Mobile County Civil Rights Movement
Rev. A. Robert Ray
219 "D" St.

Prichard, Ala.
Mr. Herbert Belt
241 Chicago Ave.
Prichard, Ala.

Gentlemen:

You are hereby notified that the application for a parade permit filed with the City Clerk on June 6, 1968, in your

names, was considered by the Mayor and City Council on this date and rejected for the following reasons:

1. The application fails to comply with section 4, subsection (1) of Ordinance No. 1135, regulating the issuance of parade permits, since it was not filed seven days before the date on which the parade was proposed to be held.
2. The application failed to identify the time of day the parade was to commence and end, since it did not designate if the hours shown were A.M. or P.M.
3. The length of time requested for the parade was excessive in either case.
4. In the event it was the intent to have the parade in the afternoon, it would create a traffic hazard due to the congested traffic created by workers returning to their homes after work hours.
5. The disaster which occurred in California this week has created an emotional strain upon society which is not conducive to a parade of this type.

6. The application failed to define the route the parade was to follow from Prichard Park (Zoo) to its point of disbandment.

7. The application failed to clearly define the number of persons to participate in the parade.

8. The application failed to give a definite time that the participants would begin to assemble at the assembly area.

9. Highway 45 and Wilson Avenue are State and Federal Highways and to congest them would be hazardous to life and property.

10. The obstruction along the route designated could seriously hamper the answering of emergency calls including police, fire and ambulance calls.

The Mayor and City Council requests that I convey to you that they stand ready to meet with your grievance committee at any reasonable time.

Yours very truly,

/s/ BERNIECE H. CENTANNE
Berniece H. Centanne
City Clerk